

FISH & WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: March 12, 2015

Agenda Item: Cedar Creek Water Lease Renewal

Division: Fisheries

Action Needed: Final

Time Needed on Agenda for this Presentation: 5 minutes

Background

In 1993, FWP leased seven irrigation water rights on Cedar Creek, tributary to the Yellowstone River near Corwin Springs, from the U.S. Forest Service. The lease protects 1.3 cfs in the lower reach of Cedar Creek. The Montana Department of Natural Resources and Conservation authorized the temporary change to in-stream flow in 1995 for a period of 10 years (the maximum allowed by statute). In 2005, the lease was renewed for an additional 10 years, which expires Sept. 20, 2015.

Cedar Creek historically has been an important spawning stream for Yellowstone cutthroat trout. During times of drought, irrigation diversions have dewatered the stream, limiting fry production and migration into the Yellowstone River. The lease has been successful in maintaining high levels of Yellowstone cutthroat fry production during these times. FWP also holds another instream flow change which provides an additional 1.7 cfs in the lower reach of Cedar Creek.

The USFS has agreed to a 10-year extension of the lease to FWP at no cost for this process. On approval of the lease renewal agreement by the Commission, FWP will make application to DNRC for renewal of the temporary change to in-stream use for an additional period of 10 years.

Public Involvement Process & Results

As part of the lease renewal process, DNRC would notify other water users and allow them to submit evidence that the instream-flow lease has adversely affected their water rights. FWP has worked closely with the local water users to ensure the effectiveness of the lease.

Alternatives and Analysis

One alternative would be to allow the current lease to expire without extension, reducing the amount of water protected from diversion, and resulting in lower Yellowstone cutthroat fry production. Another alternative would be to acquire the water rights from the USFS and permanently change them to instream flow. FWP will continue to investigate the latter alternative, which may prove viable in the future.

Agency Recommendation & Rationale

FWP recommends that the Commission approve the Water Rights Lease Renewal Agreement and continue to protect instream flow in Cedar Creek.

Proposed Motion

I move to approve the Water Rights Lease Renewal Agreement with U.S. Forest Service and instruct FWP staff to make application with the DNRC to renew the temporary change to instream flow for a period of 10 years.